

ASSEMBLY BILL

No. 167

Introduced by Assembly Member Hagman

January 23, 2013

An act to amend Section 17204 of the Business and Professions Code, relating to unfair competition.

LEGISLATIVE COUNSEL'S DIGEST

AB 167, as introduced, Hagman. Unfair competition: private enforcement actions.

Existing law defines unfair competition to include an unlawful, unfair, or fraudulent business act or practice, unfair, deceptive, untrue, or misleading advertising, and any false representations to the public. Existing law, as amended by Proposition 64 at the November 2, 2004, statewide general election, authorizes an action for relief from this prohibited conduct to be brought by the Attorney General, a district attorney, a county counsel, or a city attorney or prosecutor, or by any person who suffered an injury in fact and has lost money or property as a result of the unfair competition, and provides various remedies, including injunctive relief, restitution, and civil penalties.

This bill would define the injury in fact required for a private person to bring suit under these provisions as damages suffered by each individual plaintiff or member of a class amounting to at least \$500, adjusted for inflation, as specified. The bill would also provide that it shall become effective only when submitted to, and approved by, the voters of California.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions for Injunctions by Attorney General, District Attorney, County Counsel, *City Attorneys*, and ~~City Attorneys~~ *Private Persons*.

(a) Actions for relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or a district attorney or by a county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or by a city attorney of a city having a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association, or by a person who has suffered injury in fact and has lost money or property as a result of the unfair competition.

(b) *For the purposes of this section, "injury in fact" means damages suffered by each individual plaintiff or member of a class amounting to at least five hundred dollars (\$500), adjusted for inflation pursuant to the California Consumer Price Index for All Urban Consumers, as published by the Department of Industrial Relations, Division of Labor Statistics and Research, or its successor index.*

SEC. 2. Section 1 of this act shall not become operative until approved by the voters. The Secretary of State is hereby directed to place those provisions on the ballot of the next statewide election for approval by the voters in accordance with applicable provisions of law.

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